



Attention: Mail Stop AF
RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE REQUESTED
EXAMINING GROUP 3728

PATENT

Customer No. 22,852

Attorney Docket No. 09159.0003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Christian Tourre et al.) Group Art Unit: 3728
Application No.: 09/852,712) Examiner: S. Luong
Filed: May 11, 2001)
For: PACKET OF TISSUES)

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

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REQUEST FOR RECONSIDERATION AFTER FINAL

In reply to the Final Office Action mailed December 1, 2003, the period for response having been extended by a request for extension of two (2) months and fee payment filed concurrently herewith, and pursuant to 37 C.F.R. § 1.116, favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Regarding the Office Action

In the Office Action, the Examiner rejects claims 16-22, 30, and 31 under 35 U.S.C. § 103(a) as being unpatentable over Applicants' Admitted Prior Art in view of *Wewers* and *Williams*. The Examiner further rejects claims 16-22, 30, and 31 under 35

U.S.C. § 103(a) as being unpatentable over *Focke et al.* or *Rugenstein et al.* in view of *Wewers* and *Williams*. Applicants respectfully traverse these rejections.

Applicants continue to be perplexed with the Examiner's insistence in citing *Wewers* in rejecting the claims. As the Applicants have argued in numerous responses, *Wewers* is non-analogous art. While the Examiner appears to understand this, stating in the present Office Action that "the Examiner is only citing the reference to show a typical square-shaped package that is well known in the packaging art," the Examiner, nonetheless, continues to assert the reference.

It is well settled that when deciding whether a reference is from a relevant art, we must first determine whether the reference is within the inventors' field of endeavor, and if it is not, we must determine whether the reference is reasonably pertinent to a particular problem confronting the inventor. *In re GPAC, Inc.*, 57 F.3d 1573 (Fed. Cir. 1995). In the instant case, the reference fails both tests. First, the reference is directed to a pouch for holding china. The instant invention, on the other hand, is directed to packaging of absorbent paper tissues. Second, while the instant invention is directed to the problem of retaining the shape of a package of tissues when the package is stressed, *Wewers*, on the other hand, is directed to a container that will protect china when stacked and that will not deteriorate with age and use. Thus, not only is *Wewers* not in the inventors' field of endeavor, but it in no way addresses the problem solved by the present invention. As such, the Examiner should cease citing this reference as a basis of rejection.